<u>REMARKS</u>

Claims 1-123 were filed and are pending. Claims 1-20, 22-25, 27-33 and 35-123 were rejected under 35 U.S.C. § 102. Claims 21, 26 and 34 were rejected under 35 U.S.C. § 103. Reconsideration and allowance of Claims 1-123 is requested.

<u>Rejection of Claims under 35 U.S.C. § 102</u>

In the Office Action, Claims 1-20, 22-25, 27-33 and 35-123 were rejected under 35 U.S.C. § 102 as being anticipated by Kenner et al. (U.S. Patent No. 5,956,716).

Regarding Claim 1, the Office Action stated:

Kenner teaches apparatus for effecting the provision of content over a network, comprising:

means for receiving a request from a client for specified content (= requesting and retrieving video clips by the user at the user multimedia terminal) [see Abstract and Col. 4, Lines 43-64];

means for communicating to the client the identity of a node server having the specified content stored thereon, thereby enabling the client to request transmission of the specified content from the node server (= communicating between the web server and the user terminal for transmitting web page and video clips to the user terminal) [see Fig. 4 and Col. 22, Line 63 to Col. 23, Line 49]; and

means for ascertaining that the node server transmitted the specified content to the client (= locating audio/video content on servers to transmit to the users) [see Col. 5, Lines 16-64], wherein an owner of the node server is offered an incentive as compensation for transmission of the specified content to the client (= placing advertisements and promotions) [see Col. 4, Lines 7-34 and Col. 19, Lines 8-37].

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Claim 1 recites (emphasis added):

Apparatus for effecting the provision of content over a network, comprising:
means for receiving a request from a client for specified content;
means for communicating to the client the identity of a node server having the specified content stored thereon, thereby enabling the client to request transmission of the specified content from the node server; and
means for ascertaining that the node server transmitted the specified content to the client, wherein an owner of the node server is offered an incentive as compensation for transmission of the specified content to the client.

Kenner et al. teach a video clip storage and retrieval system (column 4, lines 37-38 of the Kenner et al. patent). Kenner et al. teach that "[t]he video clip retrieval system is a distributed computer system or network whereby video clips and text information, stored locally and at a remote location, can be requested and viewed at a user's multimedia terminal" (column 4, lines 43-46 of the Kenner et al. patent). Kenner et al. further teach, at column 7, lines 14-35 of the Kenner et al. patent (emphasis added):

FIG. 1 illustrates a preferred embodiment of the video clip storage and retrieval system, showing its structural hierarchy and the various modules which comprise the system. As shown, the system comprises one or more user terminals 14, a local storage and retrieval unit ("local SRU") 18, a data sequencing interface (DSI) 30, one or more extended storage and retrieval units ("extended SRUs") 26, and one or more index managers ("IM") 22.

By way of a system overview, video clips are stored primarily on extended SRUs 26, and are tracked and distributed by the IMs 22. A user obtains videos of interest by communicating with a primary index manager ("PIM") 22 via a local SRU 18. The PIM 22 locates the requested video clips and creates a DSI 30 to direct the efficient download of the video clips to the user terminal 14. The connections between terminal 14 and

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the local SRU 18 can be within the same computer, or
between two or more computers located within a
building, which are linked together on a local area
network.

Kenner et al. do not teach or suggest "means for
communicating to [a] client the identity of a node server having
... specified content stored thereon, thereby enabling the client
to request transmission of the specified content from the node
server," as recited in Claim 1. Rather, Kenner et al. teach that
an entity (PIM 22) to which a user terminal (analogous to the
"client" in Claim 1) communicates a request for a video (content)
creates another entity (DSI 30) which requests transmission of
video clips of the video to the user terminal.

An architecture for effecting the provision of content over
a network as in Claim 1 provides advantages not provided by an
architecture as taught by Kenner et al. For example, with an
architecture as in Claim 1, the client can evaluate the
capabilities of node server(s) to deliver content and request
transmission of the content from node server(s) that can best
provide the content to the client. For instance, as described in
Applicant's specification at page 27, lines 16-35, the client can
determine topological proximity of node server(s), evaluate the
bandwidth and/or latency performance of node server(s), consider
other scheduled content delivery by node server(s), and/or
analyze (e.g., trend analysis) operation of node server(s), then
select node server(s) for delivery of content to the client based
on one or more of those evaluations.

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Kenner et al. also do not teach or suggest that an owner of

a node server can be offered an incentive as compensation for

transmission of specified content to a client, as recited in

Claim 1.   This aspect of Applicant's invention is discussed, for

example, at page 7, line 29 to page 8, line 7 of Applicant's

specification:

> In one particularly advantageous aspect of the
> invention, the owner of a site on the network can be
> provided with one or more incentives to make that
> network site a node server. Such incentives can
> include, for example, access to premium content from
> the core server (or other content providing site),
> access to free content from a content providing site
> (e.g., a free movie, free software, a free software
> upgrade), access to content that has been modified in a
> desirable way (e.g., content without advertising),
> loyalty program credits (e.g., frequent flyer miles),
> cash, or some combination of such incentives. However,
> as can be readily understood, the invention
> contemplates the use of any incentive or combination of
> incentives to induce a network site owner to allow
> their site to be used as a node server.

In the Office Action it is contended that this limitation of

Claim 1 is taught at column 4, lines 7-34 and column 19, lines 8-

37 of the Kenner et al. patent.   However, that is not the case.

The Kenner et al. patent teaches, at column 4, lines 7-34:

> In one embodiment of the invention, the user, a real
> estate agent, has the capability of receiving
> up-to-date audio-visual information about a listed
> property. Presently, a real estate agent spends hours
> researching relevant aspects of available property, to
> include, inspecting the property, taking photographs of
> the property, and accumulating information about the
> property. In fact, the typical agent sees less than 50
> percent of the new homes listed because of time
> constraints. Additional time and effort is spent
> ascertaining the prospective buyer's desires,
> introducing the buyer to the range of communities
> available within a chosen region, researching
> properties that the potential buyer may be interested
> in, and then showing these properties to the potential
> buyer.

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According to the invention, a realtor's time will be
more effectively used on activities directly related to
selling property, and not on time intensive, activities
necessary to stay abreast with market conditions. For
example, by being able to view the property on a video
terminal the realtor will reduce significantly the time
spent researching potential properties. The time spent
visiting properties with the potential buyer is
likewise reduced by being able to introduce the
property to the buyer via the video clip. This allows
the realtor to devote more time to closings and other
administrative duties associated with selling the
property. Also, having the video retrieval capability
allows the realtor to constantly refresh the customer's
memory without having to revisit the property.

As can be seen, that section of the Kenner et al. patent does not

discuss the provision of an incentive to a network site owner to

allow their site to be used as a node server. Kenner et al. do

not teach or suggest that a real estate agent, the agent's

client, or the owner of a property being reviewed by the agent

and/or client is an owner of a network site that can be

incentivized to allow their network site to be used as a node

server. The Kenner et al. patent further teaches, at column 19,

lines 8-37:

Another application of the invention is directed
towards providing online drug prescription information
to physicians. Traditionally, pharmaceutical companies
have utilized very expensive detail forces to
physically meet with physicians to educate them about
proprietary medications. However, recently, with the
tremendous downward pressure on prescription pricing,
the rapidly rising costs of drug discovery and
development, the speed of reverse engineering by
competitors and the more liberal generic drug approval
policy, drug companies can no longer afford a full
detail force to market their proprietary drugs. At
present, high quality video cassettes are produced
about the drug, and are sent directly to the physician
in an attempt to supplement the sales force.

One embodiment of the invention provides ready access
to audio-visual information about various drugs
available to the physician. As with the real estate

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application, a third party text database may be used,
for example, an on-line version of the "Physicians Desk
Reference." The physician may simply search through
the on-line database and select a list of drugs that
the physician would like to view on video. The system
will search for, locate, and download the requested
audio-visual information. The drug videos may serve a
variety of functions. For example, the physician may
use this audio-visual information to learn about new
drugs, or simply to refresh or update their knowledge
about existing drugs. Also, drug companies may place
advertisements about promotional drugs on the video
clips for use by the physician.

As can be seen, that section of the Kenner et al. patent also

does not discuss the provision of an incentive to a network site

owner to allow their site to be used as a node server. Kenner et

al. do not teach or suggest that a physician, drug company, or

owner of a third party text database (e.g., on-line version of

the "Physicians Desk Reference") is an owner of a network site

that can be incentivized to allow their network site to be used

as a node server.

In view of the foregoing, Claim 1 is allowable over the

teaching of Kenner et al. Claims 2-20, 22-25 and 27-34 each

depend, either directly or indirectly, on Claim 1 and are

therefore allowable as dependent on an allowable claim.

Regarding Claim 35, the Office Action stated:

Kenner teaches apparatus for effecting the provision of
content over a network, comprising:

means for receiving a request for content from a client
(- requesting and retrieving video clips by the user at
the user multimedia terminal) [see Abstract and Col. 4,
Lines 43-64]; and

means for determining the location of the client within
the network, means for identifying the location of a
plurality of node servers within the network that have
at least part of the requested content stored thereon,
means for selecting from the plurality of node servers

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one or more candidate node servers that are determined
to be topologically proximate to the client, and means
for communicating the identity of the candidate node
servers to the client to enable the client to request
transmission of the requested content via the network
from one or more of the candidate node servers
(- determining the closest server containing the
request video clips and geographical distribution) [see
Fig. 4 and Abstract and Col. 5, Lines 39-64 and
Col. 16, Lines 14-61 and Col. 23, Lines 3-65].

Claim 35 recites (emphasis added):

> Apparatus for effecting the provision of content
> over a network, comprising:
>> means for receiving a request for content
>> from a client;
>> means for determining the location of the
>> client within the network;
>> means for identifying the location of a
>> plurality of node servers within the network that
>> have at least part of the requested content stored
>> thereon;
>> means for selecting from the plurality of
>> node servers one or more candidate node servers
>> that are determined to be topologically proximate
>> to the client; and
>> _means for communicating the identity of the_
>> _candidate node servers to the client to enable the_
>> _client to request transmission of the requested_
>> _content via the network from one or more of the_
>> _candidate node servers_.

As discussed above with respect to Claim 1, Kenner et al. do
not teach or suggest "means for communicating the identity of ...
candidate node servers to [a] client to enable the client to
request transmission of ... requested content via [a] network
from one or more of the candidate node servers," as recited in
Claim 35. In view of the foregoing, Claim 35 is allowable over
the teaching of Kenner et al. Claims 36-51 each depend, either
directly or indirectly, on Claim 35 and are therefore allowable
as dependent on an allowable claim.

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Regarding Claim 52, the Office Action stated:

Kenner teaches apparatus for effecting the provision of content over a network, comprising:

means for identifying which of a plurality of sets of content or parts of the plurality of sets of content are stored by each of a plurality of node servers that are part of the network, wherein at least one of the plurality of sets of content or parts of the plurality of sets of content is stored on redundant node servers (= locating audio/video content on servers to transmit to the users) [see Fig. 4 and Abstract and Col. 5, Lines 16-64 and Col. 16, Lines 14-61 and Col. 23, Lines 3-65];

means for receiving a request from a client that is part of the network for transmission of a set of content to the client, wherein at least part of the requested set of content is stored on redundant node servers (= requesting and retrieving video clips by the user at the user multimedia terminal) [see Abstract and Col. 4, Lines 43-64];

means for selecting from the plurality of node servers one or more candidate node servers that have stored thereon at least part of the requested set of content, and means for communicating the identity of the candidate node servers to the client to enable the client to request transmission of the requested content via the network from one or more of the candidate node servers (- communicating the user to the servers for requesting contents) [see Fig. 4 and Col. 23, Lines 3-65].

Claim 52 recites (emphasis added):

Apparatus for effecting the provision of content over a network, comprising:
means for identifying which of a plurality of sets of content or parts of the plurality of sets of content are stored by each of a plurality of node servers that are part of the network, wherein at least one of the plurality of sets of content or parts of the plurality of sets of content is stored on redundant node servers;
means for receiving a request from a client that is part of the network for transmission of a set of content to the client, wherein at least part of the requested set of content is stored on redundant node servers;
means for selecting from the plurality of node servers one or more candidate node servers

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that have stored thereon at least part of the
requested set of content; and
        means for communicating the identity of the
candidate node servers to the client to enable the
client to request transmission of the requested
content via the network from one or more of the
candidate node servers.

As discussed above with respect to Claim 1, Kenner et al. do
not teach or suggest "means for communicating the identity of ...
candidate node servers to [a] client to enable the client to
request transmission of ... requested content via [a] network
from one or more of the candidate node servers," as recited in
Claim 52.   In view of the foregoing, Claim 52 is allowable over
the teaching of Kenner et al.   Claims 53-68 each depend, either
directly or indirectly, on Claim 52 and are therefore allowable
as dependent on an allowable claim.

Regarding Claim 69, the Office Action stated that "Claim 69
is rejected under the same rationale set forth above to
claim 52."

Claim 69 recites (emphasis added):

        Apparatus for effecting the provision of content
over a television network, comprising:
        means for identifying which of a plurality of
sets of content or parts of the plurality of sets
of content are stored by each of a plurality of
node server television set-top boxes that are part
of the network;
        means for receiving a request from a client
television set-top box that is part of the network
for transmission of a set of content to the client
television set-top box, wherein at least part of
the requested set of content is stored on one or
more node server television set-top boxes;
        means for selecting from the one or more node
server television set-top boxes one or more
candidate node server television set-top boxes;
and
        means for communicating the identity of the
candidate node server television set-top boxes to

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the client television set-top box to enable the
client television set-top box to request
transmission of the requested content via the
network from one or more of the candidate node
server television set-top boxes.

As discussed above with respect to Claim 1, Kenner et al. do
not teach or suggest "means for communicating the identity of ...
candidate node server television set-top boxes to [a] client
television set-top box to enable the client television set-top
box to request transmission of ... requested content via [a]
network from one or more of the candidate node server television
set-top boxes," as recited in Claim 69. In view of the
foregoing, Claim 69 is allowable over the teaching of Kenner et.
al. Claims 70-76 each depend, either directly or indirectly, on
Claim 69 and are therefore allowable as dependent on an allowable
claim.

Regarding Claim 77, the Office Action stated that "Claim 77
is rejected under the same rationale set forth above to claim 1."
Claim 77 is allowable over the teaching of Kenner et al. for the
same reasons as given above with respect to Claim 1. Claims 78-
94 each depend, either directly or indirectly, on Claim 77 and
are therefore allowable as dependent on an allowable claim.

Regarding Claim 95, the Office Action stated that "Claim 95
is rejected under the same rationale set forth above to
claim 35." Claim 95 is allowable over the teaching of Kenner et
al. for the same reasons as given above with respect to Claim 35.
Claims 96-107 each depend, either directly or indirectly, on
Claim 95 and are therefore allowable as dependent on an allowable
claim.

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Regarding Claim 108, the Office Action stated that "Claim 108 is rejected under the same rationale set forth above to claim 52." Claim 108 is allowable over the teaching of Kenner et al. for the same reasons as given above with respect to Claim 52. Claims 109-120 each depend, either directly or indirectly, on Claim 108 and are therefore allowable as dependent on an allowable claim.

Regarding Claim 121, the Office Action stated that "Claim 121 is rejected under the same rationale set forth above to claim 1." Claim 121 is allowable over the teaching of Kenner et al. for the same reasons as given above with respect to Claim 1.

Regarding Claim 122, the Office Action stated that "Claim 122 is rejected under the same rationale set forth above to claim 35." Claim 122 is allowable over the teaching of Kenner et al. for the same reasons as given above with respect to Claim 35.

Regarding Claim 123, the Office Action stated that "Claim 123 is rejected under the same rationale set forth above to claim 52." Claim 123 is allowable over the teaching of Kenner et al. for the same reasons as given above with respect to Claim 52.

In view of the foregoing, it is requested that the rejection of Claims 1-20, 22-25, 27-33 and 35-123 under 35 U.S.C. § 102 be withdrawn.

Rejection of Claims under 35 U.S.C. § 103

In the Office Action, Claims 21, 26 and 34 were rejected under 35 U.S.C. § 103 as unpatentable over Kenner et al. (U.S. Patent No. 5,956,716).

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Claims 21, 26 and 34 each depend, either directly or indirectly, on Claim 1 and are therefore allowable over the teaching of Kenner et al. for at least the reasons given above with respect to Claim 1.

In view of the foregoing, it is requested that the rejection of Claims 21, 26 and 34 under 35 U.S.C. § 103 be withdrawn.

<u>CONCLUSION</u>

Claims 1-123 were pending and were rejected. In view of the foregoing, it is requested that Claims 1-123 be allowed. If the Examiner wants to discuss any aspect of this application, the Examiner is invited to telephone Applicant's undersigned attorney at (408) 945-9912.

I hereby certify that this correspondence is being transmitted via facsimile to the U.S. Patent and Trademark Office, Group Art Unit 2155, facsimile number (571) 273 8300, on <u>March 2, 2006</u>.

3-2-06
Date

Signature

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